

## REMARKS

Applicants request favorable reconsideration and withdrawal of the rejections set forth in the above-mentioned Office Action in view of the foregoing amendments and the following remarks.

Claims 1-21 remain pending, with claims 1, 11 and 20 being independent claims. Claims 1, 11, and 20 have been amended herein. Support for the amendments can be found throughout the originally-filed disclosure, including, for example, in Figures 1 and 2 and Paragraphs 0011-0012. Thus, Applicants submit the amendments do not include new matter.

Claims 1-5, 7, 10-16, 18, and 20 are rejected in the Office Action under 35 U.S.C. § 103(a) as being unpatentable over Adams et al. (U.S. Patent No. 7,389,256) in view of Berger et al. (U.S. Patent Application Pub. No. 2002/0103752). Claims 6 and 17 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Adams et al. in view of Berger et al., and further in view of Rose et al. (U.S. Patent No. 5,757,917). Claims 8, 19, and 21 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Adams et al. in view of Berger et al., and further in view of Williams et al. (U.S. Patent No. 5,815,657). Claim 9 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Adams et al. in view of Berger et al., and further in view of Campbell et al. (U.S. Patent Application Pub. No. 2002/0023033).

Applicants respectfully traverse the rejections. Nevertheless, without conceding the propriety of the rejections and solely to expedite prosecution, Applicants have amended independent claims 1, 11, and 20 to clarify the distinctions between these claims and the cited references. Accordingly, Applicants submit the independent claims are allowable, for at least the foregoing reasons.

Amended independent claim 1 now recites, inter alia, transmitting payment criteria for purchase of a supplier's item by a customer from a customer computer to a supplier computer.

The Office Action cites Adams et al. as disclosing a method of selecting payment systems for facilitating the processing of payments. Specifically, the Office Action, on pages 2-3, asserts that Adams et al. discloses transmitting payment criteria for purchase of an item by a customer from a customer to a supplier, where the “customer” corresponds to the operator 2 and the “supplier” corresponds to the processing server 12.

Applicants submit that the operator 2 in Adams et al. cannot equate to a customer as recited in amended independent claim 1. Adams et al. discloses that:

Once processing server 12 has been initialized and account numbers downloaded or algorithms for determining account numbers and associated systems established, the system is ready for use. All operators 2 and supervisors must log into processing server 12 using a predetermined user ID and password for identification prior to using the system (step 36). A supervisor is a system user with a higher level of operating privilege than an operator 2 such that a user with supervisory authority can initiate system actions for which a normal operator does not have permission. In addition, financial transaction processing system 10 supports multiple levels of supervisory authority in which supervisors themselves can have varying degrees of authority. Software and methods for authenticating system users and establishing multiple levels of operating privileges are known to those of ordinary skill in the art.

An operator 2 is typically presented with a group of miscellaneous payments to process. This group of payments is referred to as a “batch”. This batch can either be grouped by operator 2, the operator's supervisor, or another individual responsible for preparing payments for processing. There is no particular payment quantity required to form a batch although 25-50 payments are preferred.

Once logged in, operator 2 uses the web browser interface on terminal 4 to input the amount of each payment in the batch to create a total amount (sum) and quantity of the payments for that batch (step 38). An example of an input amount web browser screen, and the functionality of processing server 12 regarding this display screen are described in detail below.

Col. 7, lines 9-35 (Emphasis added). Thus, the operator 2 in Adams et al. is hired to process batches of payments for a financial transaction system. The operator 2 has job responsibilities and a supervisor having a higher degree of authority overseeing the operator's job performance.

While claim terminology must be given its broadest reasonable interpretation during examination, the terminology must still be given its plain meaning, and the claims must be interpreted consistent with the interpretation that those skilled in the art would reach. MPEP §§ 2111 and 2111.01. In present case, the plain meaning of “customer” is an entity which executes a purchase from a seller for a good or service. For example, Merriam-Webster’s Dictionary definition of a customer as “one that purchases a commodity or service.” Such a definition comports with the specification of the present application. See, e.g., paragraph 0012 of the specification, which notes that “a customer interacts with a supplier of an item, selects an item for purchase, and provides the supplier with payment criteria.” Thus, Applicants submit that the operator 2 in Adams et al. cannot be a “customer” as recited in amended independent claim 1, inasmuch as an operator is merely a worker/employee for the financial transaction processing system, and not a purchaser of a commodity or service.

Additionally, Adams et al. fails to disclose “purchase of a supplier’s item by a customer” as recited in amended independent claim 1. As previously stated, the operator 2 in Adams et al. is merely a worker for processing payment transactions, and does not purchase any item.

Applicants still further submit that Adams et al. also fails to disclose that the item purchased by the customer is the supplier’s item, as recited in amended independent claim 1. While the Office Action, on pages 2-3, equates the processing server 12 in Adams et al. to the claimed supplier, Applicants contend that the processing server 12 is a computer server system containing software and specific data relating to the operation of the financial transaction processing system:

A significant aspect of the preferred embodiment of the financial transaction processing system is that it does not require that terminals 4 be capable of any functions other than communicating with processing server 12 across terminal communication network 14 and displaying data from, and sending data to, processing server 12 using communication software such as a standard Internet web browser. Instead, all software and data specific to the operation of the

financial transaction processing system are stored in processing server 12 itself.

In the preferred embodiment, certain applets such as JAVA applets are stored on processing server 12 and sent to terminal 4 for execution by the web browser software. In this manner, components of financial transaction processing system 10 which require execution on terminal 4 are stored on server 12. The web browser interface on terminal 4 can, therefore, be customized by a JAVA applet sent from processing server 12 to terminal 4. This allows upgrades and enhancements to these components to be easily distributed and tracked, and avoids the need to have a technician travel to the location of all terminals 4 for software upgrades.

Col. 5, line 66 to Col. 6, line 19 (Emphasis added). Thus, the processing server 12 is incapable of owning or possessing an item to be purchased by a customer, as recited in amended claim 1, as it is merely a computing device and is not in possession of any purchasable items.

For similar reasons, Applicants submit that Adams et al. fails to disclose or suggest the methods recited in amended independent claims 11 and 20. In amended independent claim 11, a gateway service is provided with a customer's payment criteria for purchase of a supplier's item by the customer. In amended independent claim 20, an on-line supplier computer is provided with payment criteria for purchase of a supplier's item by the customer. As noted above, in the method of Adams et al. no customer is present to purchase an item, and no supplier is present who possesses the item involved the customer's purchase.

Applicants further submit the secondary citations to Berger et al., Rose et al., Williams et al., and Campbell et al., as applied in the Section 103 rejections, fails to cure the deficiencies of Adams et al., with respect to Applicants' invention, as recited in claims 1, 11, and 20. The secondary citations are cited in the Office Action as disclosing features of the claimed invention not disclosed or suggested by Adams et al. Applicants submit, however, that the secondary citations do not disclose or suggest at least the features of the invention discussed above that are not found in Adams et al.

For at least the foregoing reasons, Applicants respectfully submit that the cited references fail to teach or suggest Applicants' invention, as recited in independent claims 1, 11, and 20.

The remaining claims in the present application are dependent claims that depend directly or indirectly from claims 1, 11, and 20, and are allowable by virtue of their dependency and in their own right for further defining Applicants' invention. Favorable and independent consideration thereof is respectfully sought.

Claims 1-21 are also provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-19 of copending Application No. 10/611,034.

Applicants respectfully submit that the claims of Application No. 10/611,034 fail to recite, or other wise suggest, including information indicative of whether located payment systems match payment criteria, as recited in claims 1, 11, and 20. Applicants submit that absence a showing of why it would have been obvious to one of ordinary skill in the modify the claims of Application No. 10/611,034, there is not a prima facie case for a double patenting rejection with the present application. Moreover, should the claims still be deemed obvious in view of the claims of Application No. 10/611,034, Applicants respectfully request that the double-patenting rejection be held in abeyance until such time that the claims of Application No. 10/611,034 or the present application are otherwise found allowable.

Applicant's undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 530-1010. All correspondence should be directed to our address listed below

Respectfully submitted,

/Donald H. Heckenberg, Jr./

---

Donald H. Heckenberg, Jr.  
Attorney for Applicants  
Registration No. 60,081

FITZPATRICK, CELLA, HARPER & SCINTO  
30 Rockefeller Plaza  
New York, New York 10112-3800  
Facsimile: (212) 218-2200  
DHH/SKY

FCHS\_WS 3552662v1